



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

James C. Lamb
Sandler Reiff
1025 Vermont Ave NW, Suite 300
Washington, DC 20005

MAY 18 2017

RE: MUR 7126
Michigan Democratic State Central Committee

Dear Mr. Lamb,

On May 11, 2017, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of violations of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. See Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016), effective September 1, 2016. Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 52 U.S.C. § 30109(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement. Please note that the first installment of the civil penalty (\$100,000) is due within 60 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1597.

Sincerely,

A handwritten signature in cursive script that reads "Claudio J. Pavia".

Claudio J. Pavia
Attorney

Enclosure
Conciliation Agreement

14-00000-10000

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 7126
Michigan Democratic State Central Committee)
and Sandy O'Brien in her official capacity)
as treasurer)

CONCILIATION AGREEMENT

This matter was initiated by a *sua sponte* submission filed by the Michigan Democratic State Central Committee and Sandy O'Brien in her official capacity as treasurer ("MDP" or "Respondent") on January 29, 2015. The Federal Election Commission ("Commission") made findings that the Respondent failed to keep an itemized record of contributions; failed to keep an itemized record of disbursements; accepted anonymous cash contributions; failed to deposit receipts in an account at a designated depository; made prohibited cash disbursements; understated total contributions and disbursements; and reported false contributions and refunds, as set forth in the Commission's Factual and Legal Analysis (Aug. 25, 2016). Sandy O'Brien is only named in this Agreement in her official capacity as the current treasurer of the committee. She was not the treasurer during the relevant time period in this matter.

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this Agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to provide information relevant to the Commission's resolution of this matter.

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III. Respondent enters voluntarily into this Agreement with the Commission.

IV. The pertinent facts and legal provisions at issue in this matter are as follows:

A. Summary of Relevant Facts

1. MDP is a political committee within the meaning of 52 U.S.C. § 30101(4) and a state committee of the Democratic Party within the meaning of 52 U.S.C. § 30101(15).

2. Over the course of nearly 14 years, MDP operated nine weekly bingo games to raise money for its federal account. MDP's bingo procedures violated multiple provisions of the Federal Election Campaign Act of 1971, as amended (the "Act") and the Commission's regulations, including the recordkeeping and cash transaction provisions. Within the statute of limitations period, MDP inaccurately reported approximately 12,500 contributions involving \$4.5 million, understated contributions by approximately \$4.4 million, and understated disbursements by approximately \$3.9 million.

3. All transactions at the bingo games were in cash. In addition, MDP used cash to pay staff wages and to make deposits in an account designated for a progressive bingo jackpot. MDP deposited the net cash receipts — that is, what remained after paying out prizes, paying the staff, and making deposits to the progressive jackpot account — in nine separate bingo license accounts. Consequently, MDP did not deposit all receipts in a federal account.

4. MDP understated its total bingo-related receipts and disbursements. MDP issued prize vouchers only to the winners of prizes \$60 and above and relied on those vouchers when calculating its total prize disbursements for reporting purposes. It

therefore failed to report amounts disbursed below \$60. Moreover, MDP also failed to include in its calculation those cash amounts that it paid directly to the bingo staff or deposited in the progressive jackpot account.

5. MDP did not keep a record of itemized contributions received at the games. Instead, after each game, MDP's bingo chairpersons created lists of the names and addresses of a small subset of players and attributed fictitious contribution amounts to them. The chairpersons provided the inaccurate lists to the Compliance Director as part of monthly documentation packages for each bingo license. Compliance staff then entered that information in databases used to prepare MDP's disclosure reports.

6. MDP recognized that, by assigning contributions to a small proportion of players, it risked inaccurately reporting aggregate contributions over the \$10,000 annual limit applicable to state committees of a political party. Accordingly, a compliance staff person revised the contributor lists before they were entered into MDP's databases to remove those individuals with reported contributions at or near the annual limit. MDP itemized the remaining contributions on the list and moved the balance of cash receipts to the unitemized contributions line of the relevant report.

7. A compliance staff person also reported refunds that were not made to remedy the apparent excessive contribution amounts of certain players who were inadvertently left on the contributor lists and entered into MDP's databases.

8. MDP contends that the above bingo procedures were established by longtime party leaders who occupied senior management and compliance positions. They left the committee in 2013, and the violations came to light under MDP's succeeding party leadership. The new chair promptly directed his compliance staff and

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attorneys to conduct an internal investigation of MDP's bingo fundraising practices. As a result of that investigation, the new chair ended all bingo-related fundraising and directed the staff to amend MDP's federal reports.

9. MDP contends that its current chair and management staff had no knowledge of the bingo fundraising practices that ended before their term began. MDP contends that it has engaged an independent professional firm to assist the compliance staff to perform all of the functions necessary to file complete and accurate reports to the Commission, and that the professional firm is knowledgeable about the Commission's filing regulations and accounting procedures.

10. MDP contends that the Commission was unaware of the years of inaccurate filings described in this Agreement until MDP made a voluntary submission to the Commission. MDP contends that, in addition to the voluntary submission, it has cooperated and continues to cooperate with the Commission about this matter and any other matter the Commission deems appropriate.

B. Applicable Legal Provisions

11. The Commission's regulations provide that "the entire amount paid as the purchase price for a fundraising item sold by a political committee is a contribution."

11 C.F.R. § 100.53.

12. The treasurer shall keep an account of all contributions received by or on behalf of a political committee. 52 U.S.C. § 30102(c)(1); 11 C.F.R. § 102.9(a). For any person who makes a contribution in excess of \$50, such account shall include the person's name and address together with the date and amount of the contribution. 52 U.S.C. § 30102(c)(2); 11 C.F.R. § 102.9(a)(1). For any person who makes a contribution

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or contributions aggregating more than \$200 in a calendar year, such account shall include the person's name, address, occupation, and employer together with the date and amount of any such contribution. 52 U.S.C. § 30102(c)(3); 11 C.F.R. § 102.9(a)(2); see also 52 U.S.C. § 30101(13)(A); 11 C.F.R. § 100.12 (defining "identification" of an individual). For all other contributions — that is, small contributions below \$50 — such account shall be kept by "any reasonable accounting procedure." 11 C.F.R. § 102.9(a).

13. The treasurer shall keep an account of all disbursements, along with the date, amount, and purpose. 52 U.S.C. § 30102(c)(5); 11 C.F.R. § 102.9(b)(1).

14. No person shall make cash contributions to a political committee that in the aggregate exceed \$100. 52 U.S.C. § 30123; 11 C.F.R. § 110.4(c)(1). A committee receiving a cash contribution in excess of \$100 must promptly return the excessive amount. 11 C.F.R. § 110.4(c)(2). Moreover, a committee receiving an anonymous cash contribution in excess of \$50 shall promptly dispose of the excessive amount. *Id.* § 110.4(c)(3).

15. A committee must deposit all receipts in an account at a depository designated by the committee. 52 U.S.C. § 30102(h)(1); 11 C.F.R. § 103.3(a).

16. A committee shall make no disbursements other than petty cash disbursements except by check or similar draft drawn on such account. 52 U.S.C. § 30102(h)(1)-(2); 11 C.F.R. §§ 102.10, 102.11. A committee is permitted to maintain a petty cash fund for disbursements not in excess of \$100 per single transaction, but shall keep and maintain a written journal of all disbursements made from that fund. 52 U.S.C. § 30102(h)(2); 11 C.F.R. § 102.11.

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1. Respondent violated 52 U.S.C. § 30102(c)(1)-(3) and 11 C.F.R. § 102.9(a) by failing to keep an itemized record of contributions.
2. Respondent violated 52 U.S.C. § 30102(c)(5) and 11 C.F.R. § 102.9(b)(1) by failing to keep an itemized record of disbursements.
3. Respondent violated 11 C.F.R. § 110.4(c)(3) by accepting anonymous cash contributions.
4. Respondent violated 52 U.S.C. § 30102(h)(1) and 11 C.F.R. § 103.3 by failing to deposit receipts in an account at a designated depository.
5. Respondent violated 52 U.S.C. § 30102(h)(1) and 11 C.F.R. § 102.10 by making prohibited cash disbursements.
6. Respondent violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3 by understating total contributions and disbursements.
7. Respondent violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3 by reporting inaccurate contributions and refunds.

VI. Having voluntarily submitted the above information in this Agreement to the Commission and having acknowledged the violations of the Act set forth in this Agreement, Respondent will do the following to fully resolve and settle this matter:

1. Pay a civil penalty to the Federal Election Commission in the amount of five hundred thousand dollars (\$500,000), pursuant to 52 U.S.C. § 30109(a)(5)(A)-(B). The civil penalty covers any and all matters referred to in this Agreement. MDP will pay the civil penalty, as follows:

- a. Within sixty-days of the date this Agreement becomes effective, pay \$100,000; and

- b. Within two-years of the date this Agreement becomes effective, in quarterly installments beginning after the initial payment, pay the remaining balance of \$400,000.
2. Cease and desist from violating 52 U.S.C. §§ 30102(c), 30102(h)(1), 30104(b) and 11 C.F.R. §§ 102.9(a)-(b), 102.10, 103.3, 104.3, 110.4(c)(3).
 3. Amend the relevant disclosure reports in accordance with instructions from the Commission's Reports Analysis Division to address the violations of 52 U.S.C. § 30104(b) as described in this Agreement.
 4. Retain and identify as Treasurer a person who will perform the duties of that office pursuant to the Act and the Commission's implementing regulations. Among other things, such person shall be responsible for keeping an account of receipts and disbursements, preserving all records of receipts and disbursements, filing reports of receipts and disbursements with the Commission, and signing each report.
 5. Require that the Treasurer and other personnel responsible for complying with the Act and the Commission's regulations attend a Commission-sponsored regional conference within 12 months of the effective date of this Agreement. Respondent shall submit evidence of registration and attendance at such event.
 6. Retain an independent outside accounting firm to conduct a review of, and provide advice concerning, MDP's accounting processes and controls relating to its compliance with the Act and the Commission's regulations.
 7. Direct an outside accounting firm or other compliance consultant to conduct a review of MDP's financial activity and disclosure reports each calendar year for the next two years, beginning with calendar year 2017.

NON-CONFIDENTIAL

promise, or agreement, either written or oral, made by either party or by agents of either party,
that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lisa J. Stevenson
Acting General Counsel

BY: Kathleen Guith
Kathleen Guith
Associate General Counsel
for Enforcement

5/11/17
Date

FOR THE RESPONDENT:

James C. Lamb
James C. Lamb
Counsel

April 21, 2017
Date

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